
**CANADIAN BROADCAST STANDARDS COUNCIL
ONTARIO REGIONAL COUNCIL**

CFRA-AM re the Mark Sutcliffe and Lowell Green Shows

(CBSC Decisions 9697-0083, 0084 and 0085)

Decided May 7, 1997

A. MacKay (Chair), R. Stanbury (Vice-Chair), R. Cohen (*ad hoc*),
P. Fockler, M. Hogarth, M. Ziniak

THE FACTS

On January 1, 1997, the Ottawa police shot Mr. Francis Nicholls, a member of the black community, in his Ottawa apartment. On the following morning, Mark Sutcliffe, sitting in for the regular early morning (6:00-9:00 a.m.) host, Steve Madely, on CFRA-AM (Ottawa), dealt with issues relating to the shooting; he continued on the subject on the early morning show of January 3. Lowell Green, the host of the mid-morning (9:00 a.m.-12 noon) show, did not raise the subject on his show of January 2 but did deal with it at length on the show of January 3. Since the complainant raised issues of a substantially similar nature regarding the three shows of hosts Sutcliffe and Green which dealt with the shooting, the CBSC considers it appropriate to address the complaints in a single decision.

There are so many excerpts from the various shows which bear some relevance to the issues raised in the complainant's letter that the Council believes that the most useful way of presenting these is in Appendices to this decision, with only brief excerpts in the body of the decision. To do otherwise would result in an otherwise unavoidably confused presentation of the facts. That being said, the Council is of the view that having the lengthier excerpts available to those who wish to review this matter in detail will at least permit them to have all of the relevant material at hand.

The Mark Sutcliffe Show of January 2

Detailed excerpts from the transcript of the Mark Sutcliffe Show of January 2 are provided in Appendix A below. The most pertinent excerpts are, however, given here. The first of these is the introduction to the show itself:

It took members of the Jamaican community only 30 minutes to show up outside the apartment of Francis Nicholls after he was shot yesterday by Ottawa-Carleton Police. He was shot four times in his apartment. Coming up, we're going to get into more of the facts and start to get reaction from the Jamaican community. Many people are accusing police of racism in this case. The police are saying they were just doing their job.

There was another reference to the "Jamaican" origins of Mr. Francis Nicholls, the man shot by police, in Sutcliffe's opening remarks; the host also went on to describe the community reaction in the following terms:

But within about 30 minutes of the shooting, as news of the shooting spread very quickly through the Jamaican community, several people showed up outside the apartment on Preston Street and began yelling at police.

Mark Sutcliffe explained the larger relevance of the shooting by placing it in the context of problems which had arisen over the past number of years between the black community and law enforcement officials:

Now, of course, the reason that the Jamaican community and members of Ottawa-Carleton's black community are paying very close attention to this case is because there has been over the course of the last five, six years some tension between the black community and Ottawa-Carleton Police, in particular over a couple of incidents.

He then referred to a number of specific situations in which members of the black community had either been shot or chased by the police but had, in any event, died as a result. He then concluded his introductory remarks in the following terms:

Of course, that caused tremendous tension between the black community and Ottawa-Carleton Police, so we will get reaction from some members of the Jamaican community this morning. They reacted, as I mentioned, very quickly and there was quite a bit of tension at the scene of the shooting yesterday at ground level at 118 Preston Street, on the street where some members of the black community arrived and were very critical of police and confronted police right on the scene. So we'll get some reaction. We'll also get the police perspective on this story and go through the facts with them. It's very difficult for them to talk about the story, of course, because the Special Investigations Unit has moved in and they will be conducting the investigation and police don't like to comment when an investigation is under way, but we'll try to get some perspectives on the facts from Ottawa-Carleton Regional Police this morning as well as reaction from the Jamaican community.

It was very early in the show that the host himself began to question the nationality of the victim and, before the first 30 minutes had passed, a caller correctly identified Mr. Nicholls as Saint Lucian and the erroneous "Jamaican" reference disappeared from the commentary thereafter.

Issues discussed by callers both with and without the prompting of the host ranged from racism to police brutality. Many callers identified themselves as blacks and openly discussed their own concerns about reactions to them both by police and civilian members of society. There were also callers who appeared by their own comments to be, if not racist, at least somewhat biased. Mark Sutcliffe did, on many occasions, remind his audience that not all the facts were yet known and that, consequently, conclusions on some aspects of the case could not be drawn at that time.

The Mark Sutcliffe Show of January 3

Detailed excerpts from the transcript of the Mark Sutcliffe Show of January 3 are provided in Appendix B below. As in the case of the previous show, only the most pertinent excerpts are given here in the body of the decision. The first of the comments cited are excerpted from the introduction to the show of the 3rd:

I think yesterday's show revealed that certain people are predisposed to have different thoughts about a topic like racism and about a topic like a police officer shooting a black person. People are predisposed to have certain thoughts about that. ... Certain people are predisposed to say police were wrong in that situation. Certain people are predisposed to say that because the man was black that there must have been racism involved on the part of police, if the man was shot. And other people are predisposed to say the police must have had a reason if they shot the man. ... We're going to go through some more of the comments from Bill Carroll [the lawyer representing the two police officers]. He's very upset -- the lawyer for the two police officers - at how quickly some members of the black community responded yesterday and even on Wednesday when they showed up at the scene of the crime... at the scene of the shooting, rather, at the scene of the shooting just half an hour after the bullets had been fired, very upset that some people are predisposed to immediately accuse the police of racism when a black man is shot. We'll talk some more about that coming up this morning.

Much of the first hour and a half of the program had to do with new facts and the procedures which the police and the Special Investigations Unit (SIU) would be following. At 7:40 Sutcliffe provided another summary of the state of the discussion and the issues of the day relating to the Nicholls shooting.

But yesterday's calls about what happened on January 1st when we were on the air yesterday morning between 06:00 and 09:00, we took dozens of calls from people with very strong feelings about the relationship between the police and Ottawa-Carleton's black community and they revealed some of the problems that the police have to face. Whether racism is a factor in this case or not, there is a perception problem in the black community that police have to deal with.

The next guest on the show was Shiv Chopra, the acting President of the National Capital Alliance of Race Relations. Some of the Sutcliffe-Chopra dialogue follows.

Mark Sutcliffe: Yesterday on CFRA, we took calls from people who were very angry with Ottawa-Carleton Police. We took calls from people who were defending the police and saying that they have a job to do. We took calls from other people saying they were very angry with the police and that there was a real problem of racial bias on the Ottawa-Carleton Police. There were people who showed up at the scene of the shooting at the apartment on Preston Street where Francis Nicholls was shot New Year's Day, half an hour after the incident happened, accusing police of racism.

[...]

Mark Sutcliffe: Isn't it harmful as well, though, when 30 minutes after an incident happens, before anybody can really know what was behind the shooting, that there are certain people on the scene who are accusing police and verbally attacking police for racism?

Shiv Chopra: Well, you see, if you were a family and your young son or somebody got shot and those people who are around, they want to know what it is and what happened and so forth, and of course there is a lot of emotion.

[...]

Mark Sutcliffe: Is this the responsibility of the police force to improve its race relations, to have more training? Is it the responsibility of the provincial government to provide more funding and more opportunity for that? But is there also the responsibility of members of the black community to perhaps wait and attempt to be a little more restrained before they immediately accuse police of racism in every case where a black person is involved?

Shiv Chopra: That may be so, but on the other hand, what do we call a black community? It's not something that's organized, that's standing out there.

The Lowell Green Show of January 3

As with the Mark Sutcliffe Shows, the bulk of the transcription is found below, in this case in Appendix C. The most relevant portions are cited here. Lowell Green covered many issues during the course of the program. One of the principal ones was the shooting of Francis Nicholls. His opening remarks included the following statements:

By the way, when are all the granola-crunchers going to learn, please? We had another one of those incidents during the weekend during which police shot a man who turned out to be black? Holy cats! You know what happened. Immediately, screams of racism reverberated off the Peace Tower, mostly from the loony leftists who are convinced that every cop is a racist pig and every person of colour or culture other than white Anglo Saxons is an absolute saint. As usual, cops hung out to dry. Oh, the press loves to do this, on the talk shows and in the press, except, except -- I pat myself on the back -- on the Lowell Green Show. You didn't hear a single word about this yesterday on my show. Do you know why? I absolutely refused to discuss it yesterday until we had some further details. ... Let's be honest here, okay? Let's just get honest here once, just for once on this program or any place else. Let's just get honest here, okay? This business of screaming racism every time a black person gets involved with the law does no one any good, least of all the black community.

The first caller on the subject of the shooting had the following exchange with Lowell Green:

Brian: I'm sick to my stomach.

Lowell Green: What about?

Brian: Ha!!! This thing about the blacks. It's getting way out of hand and it has been for many years and it's getting worse. Here, we have the black community without any information coming in, they're going [inaudible...].

Lowell Green: Well, in fairness, Brian, not the entire black community. We've got to be fair here, and I'm going to be honest with you, too. I don't think it's so much the black community as the loony left.

The following comment is excerpted from an exchange with another caller:

I don't think it serves anybody's purpose, including the black community to every time there is a black person involved, that racism is screamed. I mean, if a white person is shot or arrested or whatever, we don't scream racism.

The final commentary excerpted here is a part of the dialogue with a white caller (who identified himself as such) who was a partner in an interracial marriage.

Lowell Green: I understand that. I think it's a very valid comment and hopefully it might bring about a better understanding of why some of these things happen. My feeling is that screaming racism, et cetera, does no one any good, least of all the black community.

Michael: Right, but we do have to address it. There is a problem and for the whites to get mad at blacks for yelling racism or for blacks yelling racism...

Lowell Green: Okay, let's deal with that, but let's deal with another issue here. This is a program where we call a spade a spade, okay, where we talk about the real issues of the day. There is a perception, and I think there's some validity, that we are letting into this country too many people from other races, particularly blacks, who are causing too many problems, that the blacks are involved in a disproportionate number of crimes in this country. Now, I think it's more than a perception. Certainly, if you go to the city of Toronto, I'm going to tell you right now that blacks are involved in a disproportionate number of crimes. Now, they're probably going to throw me off the air for saying this, but it's a fact, okay? So we see this and we also know that the great majority of blacks are law-abiding, taxpaying, hardworking citizens like everybody else. So it seems to me that the black community has got to address this as well. There are people coming into this country that should not be here and it seems to me that we all have a problem, but the blacks more so. Do you understand what I'm saying?

[...]

Lowell Green: It seems to me that the black community has a special responsibility here. Now, this can be argued, okay, but my feeling is because they're the ones who are always being tarred with the same brush, it seems to me that this community, the black community has a special problem. They've got to work very hard, work with immigration officials to keep these bad asses out of here.

Michael: Okay. But what about people of other colour that come in here, who are creating crime or, you know, getting in the media for...

Lowell Green: They're not a visible minority. It's a special... I'm not saying that it's right or it's wrong. What I am trying to deal with is fact. If we see blacks involved in a disproportionate number of crimes, particularly violent crimes, it only fuels racism. If I am a black man and I see this, I'm going to work especially hard to make sure that some of these known criminals don't come in here from Jamaica, or wherever they're coming.

The Letter of Complaint

In a letter of complaint received at the CRTC and subsequently forwarded to the CBSC on January 17, 1997, a listener wrote

On the radio station CFRA 580 AM, Thursday, January 2, 1997, Mr. Mark Sutcliffe, hosting the early morning show from 06:00 to 09:00, in place of Mr. Steve Madely, claimed that the 'black community' had charged that the police shooting of Mr. Frank Nicholls was racially motivated. At no time did they identify the organization or individual who had claimed to be speaking on behalf of the 'black community'. No such individual existed. Mr. Sutcliffe also charged that the news of the shooting had spread through the 'Jamaican' community and there were members of that community on the scene, some of whom were carrying placards. NONE OF THIS WAS TRUE OR SUPPORTED BY ANY EVIDENCE. It turns out that the one of the two distraught women on the scene had been on the telephone with Mr. Nicholls at the time of the shooting. Both were personal acquaintances who lived within a block of the shooting. They carried no placards.

On the following day, Friday, January 3, 1997, these baseless claims were continued by Mr. Mark Sutcliffe and then were taken up by Mr. Lowell Green on his 'talk-show' from 09:00 to 12 noon.

Mr. Green used these baseless charges to 'tee-off' on the black community. He used these unsubstantiated accusations to make an attempt to silence this community. He brought up stereotypes about 'Jamaicans' and crime and said that they should deal with that instead of charging the police with 'racism'. Again, he NEVER substantiated his or his radio station's claims that the 'black' or 'Jamaican' community had charged the police with racism. In fact, Mr. Nicholls is not of Jamaican ancestry. Of course, Mr. Green would not let the facts get in the way of his hate-mongering.

With his outrageous 'fabrication of the news' Mr. Green made every effort to slander and malign the black community. He was, in fact, FOMENTING HATRED against said community. At one point he even admitted that 'he could be taken off the air'. He was and is well aware of the rules governing broadcasters and yet that did not moderate his inflammatory comments against the black or Jamaican community. He even went so far as to tell a black caller, who made an attempt to answer Mr. Green's groundless charges, that the caller was not allowed to defend the black community. He expressed contempt toward the caller and the black community. He encouraged the same attitude among his listeners.

I would like to know if there is any remedy available to an identifiable group that is maligned by a rude, grotesque, caricature of a broadcaster/journalist like Mr. Green. If a remedy is available, will it be applied as he, himself expected.

The Broadcaster's Response

In a letter of February 6, 1997, the News Director of CFRA responded to the complaint regarding Mark Sutcliffe.

Thank you for raising a number of issues with regard to CFRA programming on January 2 and 3, 1997, regarding the unfortunate incident involving the shooting of Frank Nicholls. To address each of the issues in turn:

After a detailed review of the 3 hour program hosted by Mark Sutcliffe, it is clear that the host did not try to paint "the black community" as a single entity with a single point of view, as you claim in your letter. Your complaint states: "At no time did they identify the organization or individual who had claimed to be speaking on behalf of the black community..." In fact, in prime radio time, immediately after the 7:30 a.m. news, Sutcliffe made it clear he had been receiving calls from "some members" of the black community. Quote: "We have been on the phone to some members of Ottawa-Carleton's black community. We talked to Sylmadel Coke, who is with the Ottawa Committee against racism. We've talked with Ewart Walters who is with the Ottawa-Jamaican community association and the editor of The Spectrum, a black community newspaper..." He went on to open the phone lines to numerous callers, some of whom chose to identify themselves as black callers. He also interviewed a black police officer about the incident, and previous incidents involving suggestions of racism.

Some of those callers c though not all c pointedly accused the police of racism. "Max" offered an example of how he feels mistreated when stopped in traffic. He said police have stereotypical views that "black men are going to jump them, or do something crazy." Geraldine (7:26 a.m.) says she is afraid of the police when her husband goes out. "As you open the door, I'm scared that a policeman is just going to take his gun. Because he is, first, afraid of me, because I am black, and he's going to shoot me. I'm not scared of white people walking on the street, but I'm afraid of the police..." CFRA also spoke with Mr. Nicholls' friend Joy Talbot off air. Her views of racism were widely reported: "If he had your skin colour, he would be alive," wrote the Ottawa Citizen in its front page story.

A caller makes reference to placards being set up at the site of the incident within a half hour, though this is not confirmed or refuted by Sutcliffe. He does, however, read part of the newspaper coverage that morning, clearly attributing the material to the newspaper. And it is abundantly clear that some black people *did* show up at the scene shortly after the incident. Some were neighbours, some called the radio newsroom, and some were reported in the Ottawa Citizen that morning: "The news of the shooting spread quickly through the Jamaican community. Only 30 minutes after the incident, several people showed up outside the apartment and yelled at police." Therefore, Mr. ..., your argument that "none of this was true or supported by any evidence" is absolutely wrong.

In conclusion, Mr. ..., CFRA agrees that it would be inappropriate to suggest that there is one single voice that represents all black people, just as it would be inappropriate to suggest one voice speaks for all white people, or all police officers for that matter. Your point is valid. Perhaps you did not hear the full program, and I hope this letter helps clear up some of the misconceptions you may have held. Over the balance of the program, there is no lack of objectivity, no information presented by the announcer which was "untrue or unsupported by any evidence."

In a second letter dated February 7, 1997, the News Director addressed the issues surrounding the Lowell Green broadcast

In response to your complaint letter regarding the Lowell Green show of January 3, 1997, and specifically the discussion surrounding the shooting of Frank Nicholls:

Your complaint begins with what you label "baseless claims" about protest among members of the region's black community. As made abundantly clear in our response to your previous complaint regarding another program (files 96/97-0083 and 96/97-0084) there was indeed abundant criticism and charges of racism from some members of the local black community in the hours after the tragic incident. The first element of your complaint has therefore been addressed.

Further, from the very outset of his program, Lowell urged people to avoid jumping to conclusions on whether racism was a factor in the shooting by Ottawa-Carleton Police. "*You didn't hear a single word about this yesterday on my show, and you know why? I absolutely refused to discuss it yesterday until we got some further details... I mean how can you comment on any of this until you get some details?*" He goes on to say that getting the facts in the matter is of paramount importance. "*This business of screaming racism every time a black person gets involved with the law does no one any good c least of all the black community.*"

Mr. ..., if you heard the program from the start, you likely heard Mr. Green offer his opinion that in general, in such cases in the past, "*We've got to be fair here. I'm going to be honest with you, too. I don't think it's so much the black community (levelling unfounded or premature claims of racism), as the looney left. It's the same old bunch. The granola-crunchers....*" He repeated that cautionary statement later in the program as well.

One caller refers to problems which arise when blacks are too quick to claim racism was involved in such situations, and when whites become angry with black people who make those claims. Far from "fomenting hatred against the black community," as you suggest, Mr. Green clearly states there is a *perception* that we are allowing too many immigrants to Canada from other races, particularly blacks, who are involved in a disproportionate number of crimes. That problem, he says, must be addressed. But "*we can't just shove all the responsibility off on a group of people. We all have a responsibility to make it a better and safer community.*"

With regard to your closing argument that Lowell told a black caller that "he was not allowed to defend the black community" you are absolutely wrong, Mr. The caller you refer to (Brian just before 11 a.m.) said he was going to *speak on behalf of the entire black community*. Lowell interjected to say "*you can't speak on behalf of any (entire) community. You speak on behalf of yourself, and I'll let you.*" The caller responded "*no,*" then agreed, and the [sic] went on to complain about Lowell having too

much air time on CFRA. Lowell asked Brian to address the issue at hand. Brian continued to complain, and was warned four times to address the issue at hand, and not his complaints about Lowell. Brian then went on to ask Lowell "*How old are you?*" After numerous chances to stick to the topic, the call was terminated. This is standard practice among open line programs which attempt to keep a focused discussion, and has nothing to do with a caller's colour.

As you know, Mr. ..., the Nicholls shooting was a tiny part of the 3 hour program-most of the show focused on other topics including young children being forced to grow up too quickly, tires flying off trucks on highways and even the initiation exercises involving a female in the Canadian military. To suggest that Mr. Green "made every effort to slander and malign the black community" is unfortunate and entirely without justification.

...

Open line programming is often by its very nature controversial and heated. ...

It may be that this issue is close to your heart, and that perhaps you did not hear the program in its entirety. I hope that with this more complete evidence now at your disposal, your concerns have been thoroughly addressed.

In a letter dated March 27, 1997, the News Director wrote to the CBSC with an update

Further to the detailed response to the complaints from [the complainant], I would draw the attention of the CBSC Regional Council members to the following:

The official report of the Ontario Special Investigation Unit (SIU) has found absolutely no grounds for charges or reprimand after a full and detailed investigation of the tragic Nicholls incident. This morning, on CFRA, and in a taped interview, the head of the SIU himself, Mr. André Marin, confirmed that there were numerous individuals and organizations which alleged racism was a factor in the police shooting of Mr. Nicholls, who is black. We are willing to provide this tape if you so desire. The complaint is clearly unfounded.

The facts were widely reported, and confirmed by various media organizations, and are thoroughly backed up by the on-air interviews which formed part of the CFRA broadcasts in the days following the incident. CFRA has clearly not breached any element of legislation or the Code.

The complainant was unsatisfied with this response and requested, on February 7, 1997, that the CBSC refer the matter to the appropriate Regional Council for adjudication.

THE DECISION

The CBSC's Ontario Regional Council considered the complaint under Clauses 2 and 6 of the *CAB Code of Ethics*, and Clauses 2 and 3 of the *RTNDA Code of Ethics*, which read as follows:

CAB Code of Ethics, Clause 2 (Human Rights)

Recognizing that every person has a right to full and equal recognition and to enjoy certain fundamental rights and freedoms, broadcasters shall endeavour to ensure, to the best of their ability, that their programming contains no abusive or discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, marital status or physical or mental handicap.

CAB Code of Ethics, Clause 6 (News)

It shall be the responsibility of member stations to ensure that news shall be represented with accuracy and without bias. The member station shall satisfy itself that the arrangements made for obtaining news ensure this result. It shall also ensure that news broadcasts are not editorial. News shall not be selected for the purpose of furthering or hindering either side of any controversial public issue, nor shall it be designed by the beliefs or opinions or desires of the station management, the editor or others engaged in its preparation or delivery. The fundamental purpose of news dissemination in a democracy is to enable people to know what is happening, and to understand events so that they may form their own conclusions.

Therefore, nothing in the foregoing shall be understood as preventing news broadcasters from analysing and elucidating news so long as such analysis or comment is clearly labelled as such and kept distinct from regular news presentations. Member stations will, insofar as practical, endeavour to provide editorial opinion which shall be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis and opinion.

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of the broadcast publisher.

RTNDA Code of (Journalistic) Ethics, Article Two:

News and public affairs broadcasts will put events into perspective by presenting relevant background information. Factors such as race, creed, nationality or religion will be reported only when relevant. Comment and editorial opinion will be identified as such. Errors will be quickly acknowledged and publicly corrected.

RTNDA Code of (Journalistic) Ethics, Article Three:

Broadcast journalists will not sensationalize news items and will resist pressures, whether from inside or outside the broadcasting industry, to do so. They will in no way distort the news. Broadcast journalists will not edit taped interviews to distort the meaning, intent, or actual words of the interviewee.

The Regional Council members listened to tapes of the program in question and reviewed all of the correspondence. The Council considers that, with respect to the January 2 and 3 programs, CFRA has not violated either Code.

The Content of the Program

The Council wishes first to underscore its view that the ultimate outcome of the review of the behaviour of the police, on the one hand, and Mr. Nicholls, on the other, both of which have been determined by either the date of the actual decision or its publication, has not been relevant to its conclusions. It should go without saying that the relevant issues always relate to the broadcaster's presentation of the programming complained of as a function of the information available at the time of the broadcast. This case is no exception to that rule.

The “Jamaican” Identity Issue

Of the principal issues raised by the complaint, the first relates to the identification of Mr. Nicholls as “Jamaican”. This occurred to a much less significant extent than has been suggested in the letter of complaint. The characterization of Mr. Nicholls as “Jamaican” did not last for more than 30 minutes of the first of the three programs being reviewed here. It appears to have been an honest error and one which, in any event, was corrected by Mr. Sutcliffe himself as quickly as the information became available to him. It does not constitute a breach of either the CAB or the RTNDA *Codes of Ethics*.

As to Lowell Green's show, the Council did not discover a single instance in which he had referred to Jamaican or other nationality. Insofar as his comments revealed any such identity, it was of the “black” community. Needless to say, the identification of the community in question as “black” could not possibly have been more relevant or germane. The issues discussed on the three programs revolved around questions of race and such a community description was of the essence of the matter. Consequently, no breach of either Code is therein disclosed.

The Council makes no assumption that there was any broadcaster carelessness in this case in the misidentification of nationality but it wishes to underscore the need for general broadcaster vigilance in distinguishing the terms “black” and “Jamaican”. It goes without saying that members of the black community come from *many* individual *national* backgrounds, which include countries with predominantly black populations and others with minority black populations. Nor should it be forgotten that Canada is itself privileged to have its own *national Canadian* black population. Thus, the Council considers that the use of such national designations ought to be limited to those circumstances in which they are both *relevant* and likely, on the basis of *known* information, to be accurately applied.

The Allegation of a Monolithic Characterization of the Black Community

The Ontario Regional Council considers it necessary to distinguish between the comments of the host and those of the callers. While there is no doubt that every broadcaster is responsible for all of the programming which it puts on the air, the allegation here made is that the host had “claimed that the ‘black community’ had charged that the police shooting of Mr. Frank Nicholls was racially motivated.” A careful review of the transcripts of the January 2 and 3 Steve Madely Show, which were hosted by Mark Sutcliffe, does reveal that a number of the host’s comments over the course of the two three-hour program refer to “the black community” but the Council does not consider that any of *his* comments give rise to the conclusions reached by the complainant. The Council considers, first, that it is only a rigid and uncharitable view of Sutcliffe’s comments which could lead one to the conclusion that the host’s view of “the black community” was that it was a monolith and, second, that such a *monolithic* group was accusing the Ottawa Police Department of racial motivation in the shooting. The complainant further alleged that Mark Sutcliffe said that “there were members of that community on the scene, some of whom were carrying placards.”

There is no doubt that, on several occasions, the host made observations regarding “the Jamaican community” (soon corrected) and “the black community” but these were interspersed

with phrases like “several people”, “members of Ottawa-Carleton’s black community”, “some members of the Jamaican community” and the like.

It is, of course, always possible that a host may be confrontational rather than inquisitive. That was certainly not the case here. Mark Sutcliffe’s references were frequently to a community, to be sure, but they were not accusatory. They were, if anything, sympathetic. Moreover, the Council is at pains to understand why there should not have been references to, and concerns for, the black community. Whether the police were right or wrong (and they were, in the end, cleared of any wrongdoing in this case), there were *appearances* which would have given any thoughtful person sufficient concern about the situation to wish that it be dealt with. And, while *all* Canadians would have been diminished by any such violent act which *might* have been racist in nature, it can hardly be doubted that an inquiry after the concerns of the potentially affected community was appropriate.

That morning, the host knew that he was stepping into a delicate and complex area. Racial and ethnic matters tend to be of that nature. Moreover, Ottawa had been exposed to a few apparent conflicts between the law enforcement authorities and members of the black community in the previous couple of years. This shooting at least *appeared* to be of a sufficiently similar character that the host felt it reasonable to consider the matter in that context.

The Council believes that Mark Sutcliffe was absolutely entitled to do so. Moreover, by approaching the subject on that basis, he was raising issues which *ought* to have been considered in the overall Ottawa community. They were important to everyone, black and white, police and civilian alike. As this Council stated in *CKTB-AM re the John Michael Show* (CBSC Decision 92/93-0170, February 15, 1994),

[O]pen line programs are a vital part of Canadian broadcasting. They present an opportunity for lively public discussion. They are timely. They are, one might justifiably observe, an *essential* home of public debate in a free democracy. They are also a locus for the expression of conflicting passions, which make for exciting radio.

As the CAB put the matter in the *Canadian Association of Broadcasters’ Submission to the CRTC in the Matter of Public Notice CRTC 1988-121* (the Commission’s ultimate policy regarding open-line programming may be found in *Policy Regarding Open Line Programming*, P.N. CRTC 1988-213):

[O]pen line programs have evolved as the most instantaneous forum for free flowing expressions of views on matters of public concern. In our view they represent an important expression and reinforcement of true democracy and as such are characteristic of only the most secure and mature democratic societies.

It is the view of the Council that Mark Sutcliffe broached a thorny issue with great skill, that he encouraged the free-flowing expression of views on a matter of public concern, that he kept remarkable balance in the discussion, despite some unpleasant interventions, and that he delivered an electronic document of value to the audience. In the view of the Council, there was no pervasive view that the black community was aggressively monolithic at all. Mark Sutcliffe did identify several individuals with whom he had spoken off air but never left the suggestion that they

or any other individual was speaking on behalf of the *entire* community. Nor, it should be added was there ever, in the course of the January 2 program, *any* reference to placards.

The Fomenting of Hatred

The complainant has alleged that Lowell Green “made every effort to slander and malign the black community. He was, in fact, FOMENTING HATRED against said community.” The Council members do not agree. It is undoubted that Green took the position that the “business of screaming racism every time a black person gets involved with the law does no one any good, least of all the black community.” Interestingly, Green does not lay responsibility for that position at the feet of the black community; to him the responsible people are the “loony left” or, as he is wont to characterize these individuals, the “granola-crunchers”. He encouraged wide-ranging participation in the call-in portion of the show, from callers of different ethnic and racial backgrounds. The Lowell Green Show is, without doubt, an opinion program, and the host is, as much as anyone, a person with strong opinions. The Council also considers that the presentation of a set of diversified opinions is the role of good talk radio and the Lowell Green Show on this occasion accomplished that very purpose. It is also an essential characteristic of such shows that they contain no abusively discriminatory material. This, too, was the case here.

While it is true that the host observed that “blacks are involved in a disproportionate number of crimes in this country”, he immediately balanced the statement with the statement that “we also know that the great majority of blacks are law-abiding, taxpaying, hardworking citizens like everybody else.” Far from fomenting hatred, Lowell Green was trying to say that everyone in our country has a problem which flows from certain perceptions regarding the black community and that the greatest responsibility to ensure that these are corrected lies with the affected community. He was, it seems to the Council, *sympathetic* not antipathetic to the black community. The Council finds no breach of either the CAB or the RTNDA *Codes of Ethics* in CFRA's broadcast of the Lowell Green Show of January 3.

The Broadcaster's Response

The CBSC always recognizes the broadcaster's obligation, as a CBSC member, to be responsive to complainants. In this case, the Regional Council considers that the broadcaster took the trouble to provide two separate letters to the complainant to deal with the issues he had raised with respect to the two radio hosts' respective programs. Both were thoughtful and responded in detail to the issues raised by the complainant. Nothing more could have been expected of CFRA's News Director. Consequently, the station did not breach the Council's standard of responsiveness.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.

Appendix A

The Mark Sutcliffe Show of January 2

Mark Sutcliffe began his show of the 2nd in the following terms:

It took members of the Jamaican community only 30 minutes to show up outside the apartment of Francis Nicholls after he was shot yesterday by Ottawa-Carleton Police. He was shot four times in his apartment. Coming up, we're going to get into more of the facts and start to get reaction from the Jamaican community. Many people are accusing police of racism in this case. The police are saying they were just doing their job.

There was another reference to the "Jamaican" origins of Mr. Francis Nicholls, the man shot by police, in Sutcliffe's opening remarks; he went on to describe the community reaction in the following terms:

But within about 30 minutes of the shooting, as news of the shooting spread very quickly through the Jamaican community, several people showed up outside the apartment on Preston Street and began yelling at police.

Mark Sutcliffe explained the larger relevance of the shooting by placing it in the context of problems which had arisen over the past number of years between the black community and law enforcement officials:

Now, of course, the reason that the Jamaican community and members of Ottawa-Carleton's black community are paying very close attention to this case is because there has been over the course of the last five, six years some tension between the black community and Ottawa-Carleton Police, in particular over a couple of incidents.

He then referred to a number of specific situations in which members of the black community had either been shot or chased by the police but had, in any event, died as a result. He then concluded his introductory remarks in the following terms:

Of course, that caused tremendous tension between the black community and Ottawa-Carleton Police, so we will get reaction from some members of the Jamaican community this morning. They reacted, as I mentioned, very quickly and there was quite a bit of tension at the scene of the shooting yesterday at ground level at 118 Preston Street, on the street where some members of the black community arrived and were very critical of police and confronted police right on the scene. So we'll get some reaction. We'll also get the police perspective on this story and go through the facts with them. It's very difficult for them to talk about the story, of course, because the Special Investigations Unit has moved in and they will be conducting the investigation and police don't like to comment when an investigation is under way, but we'll try to get some perspectives on the facts from Ottawa-Carleton Regional Police this morning as well as reaction from the Jamaican community.

It was only a few minutes later that Sutcliffe took his first call from John and clearly had sufficient information by then to modify his earlier statement regarding the *Jamaican* origins of Mr. Nicholls.

John: Yes, good morning. The first reaction that I had when waking up and listening to the news with that report, with the shooting of a Jamaican was that I was...

Mark Sutcliffe: I want to clarify that, by the way, just before you go any further. It's not 100 per cent sure that he's Jamaican. He is a black man, but we're checking now to find out whether he is from Jamaica, but we will confirm that this morning.

There was a call at 6:27 a.m. from Darcy, a man who qualified the question of the nationality of Mr. Nicholls by saying "as a black person from St. Lucia, the same country as Nicholls..." The next caller, Peter, who identified himself as white, alleged that there was racism involved in the shooting: "I believe there was racism definitely involved because they didn't have to do what they did. But they're gun happy." Another caller, Tim, made a similar allegation, to which Mark Sutcliffe responded as follows: "When you talk about a problem in the police, do you think it's throughout the police, or is it specific people?"

To another caller, Lance, who appeared to be justifying the police action, the host responded in the following way:

Let me clarify a couple of things. I appreciate your points, Lance, but let's just clarify a couple of things. Number one, there's no information that suggests that he was a criminal. Number two, there's no information that suggests he was coming at police with his knife. It's possible. Nobody has reported that he was charging police with his knife. It's possible that he was just holding a knife and he was staying still, in which case the question is and I think it's fair that the question gets raised why would you need to shoot somebody four times who's holding a knife at a safe distance from you?

Lance's call was followed by one from Kevin, who identified himself as a black police officer. He commented:

Now, I wouldn't be so quick to press the charges on police officers being racist. Yes, we have some good cops and bad cops. It happens everywhere. However, when they do a job, until the SIU is called in and executes their job in finding out what happened, we can't really say it's racism or not.

To another caller, also John, just before 7:00 a.m., the host asked: "What do you think the problem is, though? Do you think the problem is individual officers, or do you think that there's a systemic problem in the Ottawa-Carleton Police Force?" After John's response, Sutcliffe put a follow-up question: "How do you react to the fact that 30 minutes after the incident, people are showing up at the site and are being critical of police right away? Do you think that's too soon? Do you think that people should wait until they have more information before they attack police?" The following dialogue then took place with caller Earl:

Mark Sutcliffe: It's 06:57 at 580 CFRA. Good morning, Earl.

Earl: Yes, good morning. Concerning the Preston Street episode yesterday, I find that the blacks are more racist than the whites. As soon as something happens, I'm black, they're against me.

Mark Sutcliffe: Well, let me ask you this, Earl. Let's say it was your brother who was in that room and he had a knife and four shots were fired at him by police. What would your reaction be?

Earl: If he had the knife, if he wouldn't drop it, he deserves it. Those fellows, they don't know mentally how he is. You don't know if he's flying high with dope. No, I don't blame them at all. Being racist, certainly there's a few cops who are racists. You know, they're human beings, and...

Mark Sutcliffe: But is that okay?

Earl: Yes.

Mark Sutcliffe: It's okay that there are certain cops that are racist?

Earl: Well, how are you going to weed them out? There's no way.

Mark Sutcliffe: All right, Earl, thanks for your call.

At 7:15, the host announced that he had just spoken with the girlfriend of Francis Nicholls, who did not want to speak on the air that morning, and he summed up some of the calls from the first hour of the show in the following words: "Many calls this morning accusing the police of racism. Many calls defending the police and saying they were just doing their job." At 7:22, after quoting Police Chief Ford's statement on the subject, Mark Sutcliffe provided another short summary of the issues to be discussed on the show that morning:

A lot of people are calling up and talking about how police got into this guy's home and why. I don't want to get into too much speculation on that. ... The issue is do you suspect Ottawa-Carleton Police of racism when an incident like this happens? Do you think that the black community overreacted by showing up 30 minutes later?

One of the subsequent callers, Mary, put the issue in community terms:

I feel sorry for the policemen because it doesn't matter what they do to black people. They're called racists. And the black people seem to goad them because if they're asked to show identification or whatever, they don't. So I really feel sorry for the policemen because it doesn't matter what they do. They're wrong. The black community wouldn't react, even if their people commit crimes, they still come out and call it racism.

The host made another summarizing statement at 7:41:

We've been on the phone to some members of Ottawa-Carleton's black community. We talked to Sylmadel Coke who is with the Ottawa Committee Against Racism. We talked to Ewart Walters who is part of the Ottawa Jamaican Community Association and also the editor of the Spectrum, a black community newspaper. Most of them want to reserve comment for a couple of reasons. One is because the investigation is about to get under way by the Special Investigations Unit. The other because Francis Nicholls' condition is still not clear at this point. He is apparently not suffering from life-threatening injuries, but he is still in critical condition and they want to wait until he is in better shape before they begin to comment on the shooting yesterday.

A later caller, Eleanor, raised the question of the black community's role in the accusation of the police

I find your question extremely unfair and it's typical of the press. Don't think that for a moment any policeman knows that the minute he shoots a black individual, the black community here is going to scream racist. Now, do you think for one, five minutes any thinking police, which most of them are, would deliberately go out and shoot a black person

knowing that he'll be suspended without pay? I mean, let's get real here. It shows the double standard, though. If that were a white man that was shot dead, nobody would say a word. There would be an investigation. He'd be buried and that would be the end of it. So we've got to stop this nonsense. No policeman deliberately goes out and shoots a black man or a woman, and I think the black community has to stop this nonsense. And if a black individual is committing a crime, then he should be tried and charged like the rest of us. This double standard that we seem to have in our society for minorities, they have got to stop.

Some of the ongoing dialogue at the top of the next hour related to the way the host was dealing with the subject:

Mark Sutcliffe: Coming up to 07:57 on 580 CFRA. Good morning, John.

John: Yes, Mark. Hello?

Mark Sutcliffe: Hello, go ahead.

John: Yes, I think you're inflaming the situation by the comments you've been making.

Mark Sutcliffe: What comments have I been making?

John: Well, I think you're leaning toward the side of the victim. You know, the cops are...

Mark Sutcliffe: Based on what?

John: The cops are not your enemy. The country these people come from, the cops are the enemy. The cops are so corrupt that they have reason to have them as their enemies.

Mark Sutcliffe: John, what comments have I made?

John: Well, I started listening to you since 06:00 when you came on. You make me sick. You make me sick. This is Canada. This isn't where they came from. I don't care where they came from. If they don't like our system here, and our ways and our laws, go the hell back where they came from!

Mark Sutcliffe: Thanks for your call. Dwight, good morning.

Dwight: Well, Mr. Sutcliffe, I don't agree with the last caller, but you can see when you get off the air if you can think about how you pose this question about racism. It is not a question of racism and you're going to get people like that calling and saying that we should go back to where we came from. The issue is police brutality. Now, I'm not saying that it is, but the question is was the officer right or wrong in doing that? That's how the question should be posed because you're going to have these factions now saying go back to where you came from. You're going to have the black community saying police racism. The question is whether or not the officer, what he did was right or wrong. And I do have to agree with some of the callers who are saying you can't pose this question right now when we don't have enough information. It's just really... the question is whether the officer was right or wrong in what he did. Not what colour he was. We don't know what's in the officer's mind or in his heart as far as his situation, and you can see what kind of divisions are caused by you posing the question that way and I wish that you could sit back and reflect on this.

Mark Sutcliffe: Well, I agree with you, but Dwight, I think those divisions exist, whether I pose that question or not, and I think the thing that has been fascinating about the topic this morning is and I grant you the fact that to some extent, we're talking about an issue where we don't have all the facts, but certainly we have a lot of the facts is the thing that's been fascinating about the topic this morning is just how much division it has revealed. We're getting people calling up and saying, exactly like the last caller, go back to your own country if you don't like the police here, which I find offensive. Then we have people calling up who are saying that the racism is obvious in this case and that they're afraid to go out on the street. The woman who called up and said she's afraid when her husband goes out on the street because he's black and she's worried about the treatment, and certainly that reveals not only a division in our society that needs to be repaired, but also a problem that police face. Whether they are racist or not, they face a problem.

At about 8:05, the host opened up the last hour of the show with the following invitation:

This hour, I want to leave it completely wide open. What are your comments on the incident that happened yesterday? I'm not taking any sides on this issue. I want to wait until there's more information that comes forward and I'm certainly not suggesting that police have acted wrongly. I'm merely raising the question. What thoughts come into your head when you hear the information that has come out from yesterday's shooting which involved a black man?

And then, following a break for traffic and weather, he resumed:

The shooting of a black man on Preston Street in his apartment last night by a Regional Police has raised a lot of issues and a lot of comments this morning. For the next 45 minutes on CFRA, let's get these issues out in the open. Let's talk about some of the concerns that people have raised. Many people feel police have acted wrongly. Many are accusing the police this morning of racism. Many people are suggesting that the black community has responded too quickly in accusing police of racism this morning and in showing up half an hour after the incident at the man's apartment and criticizing police openly on the scene. Many people suggesting that we should wait until the investigation has brought all the facts forward and that police at least deserve a reasonable doubt, that they at least deserve the benefit of the doubt until more information comes forward.

A little later in the hour, there was the following exchange with a listener:

Bob: And we can't go on the air and say the police are racists either.

Mark Sutcliffe: I've never said they're racists.

Bob: Well, the implications are pretty strong and there's been two or three callers that have sort of suggested that. Like let's not be so quick to jump on the police. Maybe there's a reason why his family didn't go over and see him. Maybe there's a reason that the police happened, just happened to be at this man's house.

Mark Sutcliffe: I agree with you. I think that it's possible that there is a reason why the police acted that way and I'm willing to hear the explanation and I look forward to hearing the explanation. I'm only asking the question about what the public feels about this issue, but I

am not making up my mind until I hear what the police say and what Francis Nicholls himself says about the situation.

And then one of the callers herself raised the issue of the black community's reaction to the shooting:

Joyce: Good morning. A few questions. If the victim is so innocent here in this case, how come he couldn't answer the door? How come he answered with a knife in his hand? And if he had been shot by a black policeman, would the situation be different? And how come it's always racism? When the policeman shoots or whatever happens and it's always something like this, well it's always racism, no matter what the crime is. How about that for a few questions for the black community?

Another caller pressed this theme in the context of what the host himself was contributing to the discussion:

Jane: Good morning. I have two comments. You say C and you have all the information available to you that is available C do not have enough information to comment on it. Yet, you're asking other people to go on the air and make a fool of themselves because they don't have as much information as you do. Again, you are encouraging racism. Every time you refer to this incident, you refer to a black man being shot. It was a man that was shot.

Mark Sutcliffe: Do you not think there are issues that arise from this? Do you not think that there are questions that can be asked as a result of what happened yesterday?

Jane: Sure, there are. Police competence. And I suspect that they were going according to the regulations because no policeman is going to discharge his firearms in this day and age without feeling that it's completely justified. You don't make any reference to the fact that the policeman was either white or black. Why are you referring to the victim as black?

Mark Sutcliffe: Because the black community is responding and accusing the police of racism this morning. That's certainly...

Jane: But are you not promoting racism when you keep highlighting these? You didn't ask me what colour I was.

Mark Sutcliffe: No.

Jane: But then why are you...?

Mark Sutcliffe: Let's say, Jane, that five people in your family got shot by the same person. Would you start to draw the conclusion that maybe he had it in for your family? Or would you think, well, I can't start to draw connections between things. It's just a bunch of coincidences that the same guy shot five people in my family.

Jane: I think that's irrelevant. You know, this is hypothetical. All you're doing is inflaming the situation, sir, and I find this very poor professionalism.

Mark Sutcliffe: Thanks for your call.

Introducing the last half hour of the program, Mark Sutcliffe did refer to the black community's accusation in the following terms:

Let's talk about some of the issues that have arisen this morning after the accusation of racism yesterday by members of Ottawa-Carleton's black community after a 49 year-old man was shot four times by Ottawa-Carleton Police in his apartment.

He was not alone in making such an assessment. The next caller put the point in somewhat similar terms:

Mark Sutcliffe: Good morning, Angie.

Angie: Yes, hello, good morning. I just want to make a comment. It is quite strange how people comment, blacks and whites and whatever, comment complaining now about the police and their racism. In fact, if they had this racism acts to them, why hadn't they complained to the department, have the department investigate, but all of a sudden people are remembering now these racism acts performed by the police department. And with the family also, if you have a relative and you cannot hear from them, why don't you go over to the place itself where the relative lives and find out? Why do you have to call the police right away?

Mark Sutcliffe: That's a good question.

Angie: That's why I do not understand. And yes, all the facts are not in, and I am black myself, and I would like to say that I think the black community are jumping to conclusions, as well as the whites also. No one knows for sure what exactly took place. ...

And, finally, the second-to-last caller of the morning became involved in the following exchange with Mark Sutcliffe:

Irene: Yes, hello. I think the black community is being victimized by these organized groups that are trying to stir up racism in order to get contributions to their so-called groups. I think it's really, really awful and I think the black people should wake up and realize what's happening.

Mark Sutcliffe: You think it's political cynicism on the part of...?

Irene: Oh, yes. It's definitely organized groups that going after this situation, probably to... you know, they're drumming up fear among the black community themselves.

Appendix B

The Mark Sutcliffe Show of January 3

Mark Sutcliffe again sat in for Steve Madely on the early morning show of January 3. His opening remarks referred to the show of the 2nd and where he expected to take the show of the 3rd.

I'm Mark Sutcliffe in for Steve Madely this morning. Steve is back on Monday. We had a very interesting show yesterday in the aftermath of the shooting by police of Francis Nicholls, the 49 year-old man, on Preston Street. We opened up the phone lines yesterday and just let people talk about their feelings in the hours after this shooting. A lot of accusations of racism against police, a lot of people defending the police and giving the police the benefit of the doubt and revealing how people feel that police have a tough job to do and they should have the ability to defend themselves. This morning, we have new information that has come from comments from the lawyers representing the police officer, the lawyer representing Francis Nicholls. We have more information from police this morning. We'll go through that information and we'll also try and get in touch this morning with some of the lawyers involved, get more details on exactly what happened on New Year's Day when Francis Nicholls was shot and whether race is a factor in this case, or not. That's coming up this morning on CFRA. It's 06:11.

After the break, the host added the following comments:

We still don't have the complete picture and we may never have the complete picture, but we're getting more and more information together. What was interesting about yesterday's show is that without the complete picture, people were very willing to talk about it and it was as though it revealed... I think yesterday's show revealed that certain people are predisposed to have different thoughts about a topic like racism and about a topic like a police officer shooting a black person. People are predisposed to have certain thoughts about that. ... Certain people are predisposed to say police were wrong in that situation. Certain people are predisposed to say that because the man was black that there must have been racism involved on the part of police, if the man was shot. And other people are predisposed to say the police must have had a reason if they shot the man. ... We're going to go through some more of the comments from Bill Carroll [the lawyer representing the two police officers]. He's very upset at the lawyer for the two police officers at how quickly some members of the black community responded yesterday and even on Wednesday when they showed up at the scene of the crime... at the scene of the shooting, rather, at the scene of the shooting just half an hour after the bullets had been fired, very upset that some people are predisposed to immediately accuse the police of racism when a black man is shot. We'll talk some more about that coming up this morning.

After a few callers, and following a break, Mark Sutcliffe reported that "We reached lawyer Bill Carroll who represents the two police officers who were involved and he had some comments in this morning's papers about his thoughts on what happened and the quick response that the black community had." Carroll was unwilling to speak on the air; however, Sutcliffe also reached Emilio Binavince, the lawyer for the family of Francis Nicholls. They spoke at length. A part of that dialogue is excerpted here.

Mark Sutcliffe: There have been a lot of allegations by people calling the radio station, by people speaking to the media suggesting that racism is a factor in this case. Do you consider it a factor?

Emilio Binavince: It's too early to say anything about this. I think, as I said, in fairness to the officer and in fairness to Francis Nicholls, in fairness to the SIU, and to the public in general we should really stop making comments about what actually happened. I think the truth is very important. The community would like to

know what actually happened, what is the motive behind it. And if there is any racism, I think the law will deal with that, but I do not really think that at this point in time, it will help anybody, very much less justice, to make any comments that he was holding a knife, he was attacking these people and that's why he was shot. And I don't really think that I would like to make any comments about racism. If there was racism, I think it should be dealt with severely. I don't know why they acted like this, but we have to know the facts. I do not really think that this is a case in which there was any need for police intervention, much less a need for shooting. Until we know the facts of whether there was racism, I don't think I should comment on that at this point.

Mark Sutcliffe: Do we know whether the police knew that Francis Nicholls was black before they arrived at his home?

Emilio Binavince: I think they knew.

Much of the first hour and a half of the program had to do with new facts and the procedures which the police and the SIU would be following. At 7:40 Sutcliffe provided another summary of the state of the discussion and the issues of the day relating to the Nicholls shooting.

This morning, the focus has shifted in the speculation about what happened on January 1st when Francis Nicholls was shot by Ottawa-Carleton Regional Police. The focus has shifted away from what happened after police went into Francis Nicholls' apartment and is now being focussed a little bit more on why police were there and why they went into the apartment. The lawyer for the family, for the Nicholls family, Emilio Binavince, speaking to us earlier this morning on CFRA said police should not have gone in the apartment. He says there were other solutions before they took down the door and went in that they could have turned to. But yesterday's calls about what happened on January 1st when we were on the air yesterday morning between 06:00 and 09:00, we took dozens of calls from people with very strong feelings about the relationship between the police and Ottawa-Carleton's black community and they revealed some of the problems that the police have to face. Whether racism is a factor in this case or not, there is a perception problem in the black community that police have to deal with.

The next guest on the show was Shiv Chopra, the acting President of the National Capital Alliance of Race Relations. Some of the Sutcliffe-Chopra dialogue follows.

Mark Sutcliffe: Yesterday on CFRA, we took calls from people who were very angry with Ottawa-Carleton Police. We took calls from people who were defending the police and saying that they have a job to do. We took calls from other people saying they were very angry with the police and that there was a real problem of racial bias on the Ottawa-Carleton Police. There were people who showed up at the scene of the shooting at the apartment on Preston Street where Francis Nicholls was shot New Year's Day, half an hour after the incident happened, accusing police of racism. Certainly, at the very least, there is a problem for police to deal with here, at least a perception problem, wouldn't you say?

Shiv Chopra: Certainly there's a question of perceptions from both sides. The affected party, the black youth feel harassed consistently and then from time to time, that amounts to more violent action by police. Whether it's necessary or not, that's not for me to comment on. That depends on each individual case. And what the police have to do, they have to do. But the problem here is from the community's perspective, when there's a divide between the two communities, those who are affected and those who think there should be no problem, then I think the communities... the problem is they're not coming together to discuss the problem, to look at the problem. And the police itself, not having as much race

relations training as it was originally envisaged, and the Ontario government, the current Ontario government has been downplaying this all along. And then you have the question of the Police Association, that they have a job to do. So all these perceptions are playing right into it. The problems we have in the community of those who are involved in race relations, how do you put it across so that the people don't hold these very strong opinions against each other.

Mark Sutcliffe: There certainly are a lot of players involved. When you look back to the Wayne Johnson case, the Jamaican-born Ottawa man who drowned in the Rideau River after he was pursued by police, in the aftermath of that case, the Police Association, as you mentioned, was commenting. Police were commenting. The SIU was involved. There were different members of the black community commenting. What do you do to get all these people together and start eliminating some of the big gaps there are between these different people in the community?

...

Shiv Chopra: Those are the only ways that one can handle these things because you have to develop... it's not anti-racism, it's race relations. After all, we are together. We have to live together, and those perceptions, which are very often wrong, they have to be changed by talking to each other, by bringing people together. But the government is not helping. They think... they are playing to the counter lobby. It could be the Police Association. It could be the outright racists who are saying all this is unnecessary work. So therefore, from time to time, it erupts into a major problem. And the only time it's noticed is when somebody gets shot.

Mark Sutcliffe: Isn't it harmful as well, though, when 30 minutes after an incident happens, before anybody can really know what was behind the shooting, that there are certain people on the scene who are accusing police and verbally attacking police for racism?

Shiv Chopra: Well, you see, if you were a family and your young son or somebody got shot and those people who are around, they want to know what it is and what happened and so forth, and of course there is a lot of emotion.

...

Mark Sutcliffe: Is this the responsibility of the police force to improve its race relations, to have more training? Is it responsibility of the provincial government to provide more funding and more opportunity for that? But is there also the responsibility of members of the black community to perhaps wait and attempt to be a little more restrained before they immediately accuse police of racism in every case where a black person is involved?

Shiv Chopra: That may be so, but on the other hand, what do we call a black community? It's not something that's organized, that's standing out there. All they feel is, frequently, is complaints from their youth coming home that they were stopped and harassed and so whether it's true or not. But if that's what they hear every day, then how do you tell them not to arrive at the scene when something like that happens because they say, well, we've been telling you this is going to happen.

...

Mark Sutcliffe: And you're saying the solution is more training for police and also more talking, more interaction between police and members of the black community?

Shiv Chopra: Absolutely. That's the only way we can... We are an industrial society. We have an enormous amount of flux in society. People are coming in. New immigrants are here, and the youth of those immigrants who are born in Canada, they look like immigrants but they're not. Large numbers have now increased and they are Canadian-born youth, and yet they're treated as immigrants just because they are of a different colour, and that is the kind of thing that charges up the emotions. We have to make people aware that these are Canadians. They're not... they may be relatively new Canadians, and nevertheless they are Canada-born Canadians. And all this kind of thing, all this kind of information has to be presented to the communities, and police are part of that community. They're here to serve the community. They're employed by the community. And so therefore they are public servants.

Mark Sutcliffe: Mr. Chopra, thank you very much for joining us this morning. Unfortunately, we are out of time, but I appreciate your talking to us.

The interviews with Emilio Binavince and André Marin (for which the transcription is not herein provided) were replayed following the 8:00 a.m. news. At around 8:40, Sutcliffe tried to encourage callers in the following terms:

Having heard all the new information today, what are your thoughts on the role of the police in the shooting of Francis Nicholls, on the province's involvement in the Special Investigations Unit, on the possible gap that exists and the perception problem that police have to overcome in the black community?

He had the following dialogue with a caller who had responded to his prompting:

Audrey: Good morning. Mark, I think it's totally and completely inappropriate that you should be discussing this whole situation at the length you're going to. We're going to have an investigation and I think that is sufficient. I truly think it is totally inappropriate, not good for either side.

Mark Sutcliffe: Why not?

Audrey: Because you're an interviewer on the radio station. If you are in effect deciding who's guilty of what...

Mark Sutcliffe: I haven't decided anything.

Audrey: It hasn't been determined.

Mark Sutcliffe: But I haven't been deciding anything. What have we decided? All we're doing is opening the...

Audrey: You may not have decided but you're getting experts, so-called expert witnesses, pros and cons and I just think, as I say, it is totally inappropriate.

Mark Sutcliffe: All we're doing is giving the public more information to consider.

A later caller contradicted Audrey's point.

Jason: Hi, good morning, Mark. Listen, just a couple of brief words mostly about what that lady said earlier about how you shouldn't be discussing this issue because it hasn't been settled yet or something like that. I think you're doing a really good job of bringing this issue out and having, as she said, so-called experts' pro and con from each side, sort of giving us different impressions, and I think that's really good and I think she's mixed up the radio network and the criminal justice system. I think it's important that you bring this out but that if the courts want to talk about it later, that's fine.

Mark Sutcliffe: Jason, thanks for your call.

That was the last call of the January 3 show.

Appendix C

The Lowell Green Show of January 3

Lowell Green covered many issues during the course of the program. One of the principal ones was the shooting of Francis Nicholls. His opening remarks included the following statements:

By the way, when are all the granola-crunchers going to learn, please? We had another one of those incidents during the weekend during which police shot a man who turned out to be black? Holy cats! You know what happened. Immediately, screams of racism reverberated off the Peace Tower, mostly from the loony leftists who are convinced that every cop is a racist pig and every person of colour or culture other than white Anglo Saxons is an absolute saint. As usual, cops hung out to dry. Oh, the press loves to do this, on the talk shows and in the press, except, except I pat myself on the back on the Lowell Green Show. You didn't hear a single word about this yesterday on my show. Do you know why? I absolutely refused to discuss it yesterday until we had some further details. What the hell do we know? I mean, how can you comment on any of this until you get some details? Now, we have a few details. Ohh!!! It turns out the man who was shot has a number of prior convictions including, including, including three convictions for assaulting police officers. It also turns out that the knife he was wielding wasn't exactly the kind you butter bread with. Let's be honest here, okay? Let's just get honest here once, just for once on this program or any place else. Let's just get honest here, okay? This business of screaming racism every time a black person gets involved with the law does no one any good, least of all the black community.

The first caller on the subject of the shooting had the following exchange with Lowell Green:

Brian: I'm sick to my stomach.

Lowell Green: What about?

Brian: Ha!!! This thing about the blacks. It's getting way out of hand and it has been for many years and it's getting worse. Here, we have the black community without any information coming in, they're going [inaudible...].

Lowell Green: Well, in fairness, Brian, not the entire black community. We've got to be fair here, and I'm going to be honest with you, too. I don't think it's so much the black community as the loony left. It's all the

same old bunch, the granola-crunchers, the NDP has come out of the woodwork. They firmly believe every cop is a racist pig and everybody of colour is a saint. This is the standard belief of the average socialist in this country.

Green entered into the following dialogue with another caller:

Dwight: I want to talk a little bit about the [inaudible] who was shot on Preston Street. I think it's a real shame that it has to be brought back into the public eye and the police again put under the microscope. I think the ones who are accusing the police of being racist might want to put themselves in the policemen's shoes and if somebody came into their house with a knife and started to come towards them... They've never seen this person before and they had a gun in their hand, would they let that person walk right up to them and stab them or would they defend themselves?

Lowell Green: Well, it's... you know, we can't speculate I don't think on that. The fact of the matter is that race has no bearing on this, okay? I don't think it serves anybody's purpose, including the black community to every time there is a black person involved, that racism is screamed. I mean, if a white person is shot or arrested or whatever, we don't scream racism. It's a fact that the police are doing their job, are trying to do their job. Why does racism have to crop up every single time that there is a black person involved here?

Dwight: It seems to be their chief... it's their first instinct that it has to be racism. Like it can't be that this guy is a dangerous person and he could have very easily injured these policemen. If it would have been a black officer, which we have in Ottawa, if it would have been a black officer who shot that same black man, would racism be yelled, or would it have been, oh, he must have been dangerous and that's why he had to shoot him. They've got to look at it that way.

Lowell Green: You see, what has happened in the community of Ottawa, and I am sure that it's happening in many others, is that there are many police officers who now say if they approach someone, for example, driving or whatever and they see that the person is black, they let them go. In fact, there is a phrase, a rather rude phrase in Ottawa that they use and what it means is "f" it. Let them go, because it's such a hassle. If it's a person of colour, it's just such a hassle. They'll have their names on the front page, et cetera. There'll be screams of racism, so as a consequence, in many cases, if you're of colour, the cops won't touch you.

Dwight: Lowell, is it just a lack of respect for law enforcers in general because I was always taught as a kid, if a policeman says come here, you come here. If he says stop, you stop. Now, is that not being taught by the black community, or are they just [inaudible...]?

Lowell Green: Well, I don't think we can single out the black community. I think it's not being taught in many homes. I mean, in many homes \subset black, white, yellow, pink, purple or whatever \subset there is no respect for anyone or anything anymore, Dwight. I mean, let's be honest about it. Thanks for calling.

Green later became involved in a dialogue with a white caller (who identified himself as such) who was a partner in an interracial marriage and who provided more personal sensitivities to some of the issues in the Nicholls case.

Michael: I'm also in an interracial marriage so I can see the issue from both sides. Well, I'm talking about the Francis Nicholls case, of course. Before I met my wife, I thought the same way. Why in the hell do the black fellows yell racism before?

Lowell Green: Well, it's not just them. It's the left. It's the loony left.

Michael: Well, it's also the media feeding.

Lowell Green: Yes, the media feeds it.

Michael: But let me just say one quick thing here. The knee jerk reaction to me, talking to my wife, has nothing to do with the facts. My wife probably knows, or knows that it was self-defence. It's just that when a white cop shoots a black man, it clouds her objective perception because of past experiences. I never saw racism before I met my wife. Since I met my wife going out, dating, being married, racism in Canada is very subtle. It's not like it is down in the southern States, and I think that it just boils their blood. It brings it up and it has nothing to do... If you ask any black person on the street, I'm sure they would say that it was justified, but it's this perception of this racism because there are isolated cases where racism is an issue.

Lowell Green: I understand that. I think it's a very valid comment and hopefully it might bring about a better understanding of why some of these things happen. My feeling is that screaming racism, et cetera, does no one any good, least of all the black community.

Michael: Right, but we do have to address it. There is a problem and for the whites to get mad at blacks for yelling racism or for blacks yelling racism...

Lowell Green: Okay, let's deal with that, but let's deal with another issue here. This is a program where we call a spade a spade, okay, where we talk about the real issues of the day. There is a perception, and I think there's some validity, that we are letting into this country too many people from other races, particularly blacks, who are causing too many problems, that the blacks are involved in a disproportionate number of crimes in this country. Now, I think it's more than a perception. Certainly, if you go to the city of Toronto, I'm going to tell you right now that blacks are involved in a disproportionate number of crimes. Now, they're probably going to throw me off the air for saying this, but it's a fact, okay? So we see this and we also know that the great majority of blacks are law-abiding, taxpaying, hardworking citizens like everybody else. So it seems to me that the black community has got to address this as well. There are people coming into this country that should not be here and it seems to me that we all have a problem, but the blacks more so. Do you understand what I'm saying?

Michael: Okay, I see what you're saying, but it's also a sad situation when... My parents live in a small town and we go home, and we're in the grocery store and a little kid and her older sister are running by us and the little kid turns to her big sister and says "You see that nigger?" And you know that that little kid is getting that from...

Lowell Green: Oh, wait a minute. Hold it, Michael.

Michael: Wait a minute. The kid is learning that from the parents.

Lowell Green: Well, I would be very surprised if it happens that blatantly. I'm not denying that racism occurs, but I want to point something out to you, that racism is only going to increase in this country so long as we have people of some races involved in a disproportionate number of crimes. It just fuels the fires.

Michael: Well, I agree with you there, but the thing is what are we going to do about it?

Lowell Green: Well, I think... It seems to me that the black community has a special responsibility here. Now, this can be argued, okay, but my feeling is because they're the ones who are always being tarred with the same brush, it seems to me that this community, the black community has a special problem. They've got to work very hard, work with immigration officials to keep these bad asses out of here.

Michael: Okay. But what about people of other colour that come in here, who are creating crime or, you know, getting in the media for...

Lowell Green: They're not a visible minority. It's a special... I'm not saying that it's right or it's wrong. What I am trying to deal with is fact. If we see blacks involved in a disproportionate number of crimes, particularly violent crimes, it only fuels racism. If I am a black man and I see this, I'm going to work especially hard to make sure that some of these known criminals don't come in here from Jamaica, or wherever they're coming.

Michael: Okay, but that's the fault of our immigration [inaudible...].

Lowell Green: No, I think it's the fault of us all. You see, you can't just shuffle the responsibility off on a group of people. We all have a responsibility to make it a safer and better community.

Michael: Okay, Lowell.

Lowell Green: Would you not agree?

Michael: I agree.

He had more difficulty with one caller who refused to deal with the topic as he, the host, wished.

Lowell Green: Brian in Ottawa, go ahead, please.

Brian: Hello. I want to say something to you. Lowell, on behalf of the black community, I ask you not to cut off this. Don't cut off the phone.

Lowell Green: No, no, Brian. You can't speak on behalf of any community.

Brian: Okay.

Lowell Green: You speak on behalf of yourself, Brian, and I'll let you.

Brian: No.

Lowell Green: Yes.

Brian: Okay, I'll take it, but...

Lowell Green: You speak for yourself. What do you want to say?

Brian: Do not interrupt the conversation because...

Lowell Green: I'll do whatever I want, Brian. I'm God on this program.

Brian: The reason why there are so many thousands of people who are afraid to call you is because 99 per cent of everything that's said...

Lowell Green: Brian, I'm not the issue here.

Brian: ... on CFRA is from your voice. Only you speak to the point.

Lowell Green: Brian, let's deal with the issue. I'm not the issue.

Brian: Ninety-nine per cent of what is said on CFRA is from [inaudible...].

Lowell Green: Brian, if you want to get onto the topic, I'll let you. I'm not the topic.

Brian: Listen, Lowell, how old are you?

Lowell Green: Brian...

Brian: I just want to see how best I could reason with you.

Lowell Green: Brian, I'm going to give you one more chance.

Brian: Okay, that's fine.

Lowell Green: You get onto the topic, or you're history.

Brian: Okay. Lowell, do you remember Lynne Toupin?

Lowell Green: Lynne Toupin? Yes.

Brian: Yes, okay. Do you remember Jack Bordier(ph)?

Lowell Green: What's the point here?

Brian: Lowell, can you... I didn't finish.

Lowell Green: Brian, you are finished. I gave you three chances to get onto the topic and stop insulting me and you refused to do it, so you're history.